

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION

| | | |
|--------------------------|---|-------------------|
| In Re: |) | |
| |) | |
| GREATER CLEVELAND AVENUE |) | Case No. 18-50410 |
| CHRISTIAN CHURCH |) | Chapter 11 |
| |) | |
| Debtor. |) | |
| _____ |) | |

**MOTION BY APEX BANK FOR ORDER IN AID OF CONSUMMATION OF
CHAPTER 11 PLAN**

COMES NOW Apex Bank, through counsel, and requests that this Court enter an order in aid of consummation of the Debtor's Chapter 11 plan of reorganization and in support thereof, shows the Court as follows:

1. The Debtor filed for relief under Chapter 11 of the Bankruptcy Code on April 19, 2018.
2. The Debtor owns and operates a church at 5095 Lansing Drive, Winston-Salem, North Carolina (the "Church Property").
3. Apex Bank is the largest creditor in this case, holding a secured claim against the bankruptcy estate in the amount of \$3,300,299.35. Said claim is secured by the Church Property.
4. The Debtor's Chapter 11 plan of reorganization (the "Plan") was confirmed by an Order of this Court entered on February 22, 2019 [DOC# 158].
5. Pursuant to the terms of the Debtor's confirmed Plan, on or before the Effective Date of the Plan – March 9, 2019 -- the Debtor was required to tender to Apex Bank a deed in lieu of foreclosure, transferring clear, fee simple title to the Church Property to Apex Bank. Apex Bank was required to hold the deed in lieu in trust and to

not record the same prior to March 31, 2019. The Plan additionally required the Debtor to vacate the Church Property on or before April 30, 2019 and to leave the property in a “broom cleaned” condition.

6. To date, the Debtor has failed and refused to tender a fully executed deed in lieu of foreclosure to Apex Bank.

7. On April 2, 2019, after many repeated requests to counsel for the Debtor, the Debtor delivered to counsel for Apex Bank a deed in lieu, purporting to transfer title to the Church Property to Apex Bank. The deed in lieu was executed by all nine existing trustees of the Debtor. However, the signature of one of those trustees, Karen Polite, was not notarized. As such, the deed in lieu was not properly notarized and, arguably, is insufficient to transfer good, marketable title to Apex Bank.

8. On April 4, 2019, counsel for Apex Bank advised counsel for the Debtor as to the deficient (or nonexistent) notarial acknowledgement and counsel advised the undersigned that the deficiency / omission would be corrected. To date, despite many inquiries by the undersigned counsel for the Apex Bank, the deficiency / omission in the deed of lieu has not been corrected; a legally sufficient deed in lieu of foreclosure still has not been tendered to Apex Bank in contravention of the terms of the Debtor’s confirmed Plan.

9. The Plan treatment of Apex Bank’s secured claim as outlined is the result of substantial negotiations between the Debtor and Apex Bank. More specifically, Apex Bank agreed to permit the Debtor to remain in the Church Property through April 30, 2019 at the reduced “rental rate” of \$13,000.00. In consideration thereof, the Debtor agreed to tender to Apex Bank a deed in lieu to the Church Property. Apex Bank has honored its commitment and agreement in this regard, the Debtor has not.

WHEREFORE, Apex Bank requests that this Court enter an Order compelling the Debtor to tender a valid, recordable deed in lieu to Apex Bank, or, in the alternative, that the Court enter an order transferring title to the Real Property to Apex Bank, and that the Court grant such other and further relief as this Court deems just and proper.

Respectfully submitted, this the 22nd day of April, 2019.

/s/ Daniel C. Bruton
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **MOTION BY APEX BANK FOR ORDER IN AID OF CONSUMMATION OF CHAPTER 11 PLAN** was filed electronically in accordance with the local rules and was therefore served electronically on the entities that have properly registered for such electronic service by CM/ECF or by mailing a copy of same by first-class postage prepaid mail as noted as follows:

Served by CM/ECF:

Samantha K. Brumbaugh
Ivey, McClellan, Gatton & Siegmund, LLC
PO Box 3324
Greensboro, NC 27402

William Miller
US Bankruptcy Administrator
101 South Edgeworth Street
Greensboro, NC 27401

This the 22ND day of April, 2019.

/s/ Daniel C. Bruton
DANIEL C. BRUTON